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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,682	01/16/2004	Tracy E. Thieret	D/A2179	8583
7590 Ortiz & Lopez, PLLC P.O. Box 4484 Albuquerque, NM 87196-4484			EXAMINER CONTINO, PAUL F	
			ART UNIT 2114	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			02/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/759,682	Applicant(s) THIERET ET AL.	
	Examiner Paul Contino	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION: Final Rejection

Response to Amendment

1. The affidavit filed on December 5, 2006, under 37 CFR 1.131 has been considered but is ineffective to overcome the prior art references Sese et al. and Pfeiffer et al.

2. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Sese et al. and Pfeiffer et al. references to either a constructive reduction to practice or an actual reduction to practice. The Examiner finds a period between alleged conception of the invention dated August 20, 2001, and the constructive reduction to practice in the form of a filed application for patent dated January 16, 2004. The amount of time unaccounted for is interpreted by the Examiner as indicative of a lack of diligence. As a result, the affidavit is considered ineffective.

Response to Arguments

3. Applicant's arguments with respect to claims 1-24 have been considered, and as a result of cancellation of claims 1-24 and inclusion of new claims 25-48, the arguments are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25-34, 36-43, and 45-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Bajpai (WO 97/15009).

As in claim 25, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

collecting machine data in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database, where local diagnostic element 28 is interpreted as a machine*);

creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]*);

transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote*

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enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31); and

proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link*):

I) providing said customer with corrective action for said machine (*page 11 lines 9-17*);

II) transmitting corrective action over said data network directly to said machine (*page 11 lines 9-17*);

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

As in claim 26, Bajpai discloses said machine data is collected automatically by sensors or software associated with the machine (*page 5 lines 3-6 and page 7 line 1 through page 8 line 6*).

As in claim 27, Bajpai discloses said machine data is collected upon recognition of a malfunction by said sensors or software (*page 5 lines 9-11*).

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As in claim 28, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

As in claim 29, Bajpai discloses said document is transmitted to said remote enterprise automatically by said machine (*page 10 lines 3-16*).

As in claim 30, Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (*page 10 lines 3-12, where it is interpreted that the customer [user workstation 10] is communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]*).

As in claim 31, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document*).

As in claim 32, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

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As in claim 33, Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (*page 11 lines 5-9*).

As in claim 34, Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (*page 10 lines 3-12 and page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document*).

As in claim 36, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

collecting machine data in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database, where local diagnostic element 28 is interpreted as a machine*), wherein said machine data is collected automatically by sensors or software associated with the machine (*page 5 lines 3-6 and page 7 line 1 through page 8 line 6*);

creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]*);

transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*), wherein said machine data is transmitted automatically to said remote enterprise without user input (*page 11 lines 4-6*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31*); and

proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link*):

I) providing said customer with corrective action for said machine (*page 11 lines 9-17*);

II) transmitting corrective action over said data network directly to said machine (*page 11 lines 9-17*);

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

As in claim 37, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

As in claim 38, Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (*page 10 lines 3-12, where it is interpreted that the customer [user workstation 10] is*

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communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]).

As in claim 39, Bajpai discloses processing said document at said remote enterprise utilizing a remote database of corrective actions (*Figs. 1 and 2; page 10 lines 3-27*).

As in claim 40, Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (*page 11 lines 5-9*).

As in claim 41, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document*).

As in claim 42, Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (*page 10 lines 3-12 and page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document*).

As in claim 43, Bajpai discloses requesting additional information from said machine by said remote enterprise over said data network (*page 11 lines 10-14*).

As in claim 45, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

collecting machine data in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database, where local diagnostic element 28 is interpreted as a machine*), wherein said machine data is collected automatically by sensors or software associated with the machine (*page 5 lines 3-6 and page 7 line 1 through page 8 line 6*);

creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]*);

transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31*); and

proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link*):

I) providing said customer with corrective action for said machine (*page 11 lines 9-17*);

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II) transmitting corrective action over said data network directly to said machine
(page 11 lines 9-17);

III) escalating said fault analysis to an advanced customer support unit within said
remote enterprise (page 11 line 18).

As in claim 46, Bajpai discloses said machine data includes at least one of the group
comprising: machine identity, machine location, machine usage history, error codes, customer
identification (page 10 lines 5-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 35, 44, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Bajpai in view of Pfeiffer et al. (US PGPub 2004/0078722).

As in claims 35, 44, and 47, Bajpai discloses a document for transmission over a
network. However, Bajpai fails to teach of formatting the document in an object description

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language. Pfeiffer et al. teaches of formatting troubleshooting information in XML before sending to a support enterprise (*Abstract, paragraph [0007]*).

It would have been obvious to a person skilled in the art at the time the invention was made to have included the XML formatting as taught by Pfeiffer et al. in the invention of Bajpai. This would have been obvious because XML allows for a more comprehensive means of troubleshooting in a computer system (*paragraphs [0005]-[0006] and [0016]*).

As in claim 48, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document*).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Contino whose telephone number is (571) 272-3657. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFC
1/19/2007


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